

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

L.W., in her capacity as parent and guardian of minor student B.W.,

Case No.: 2:19-cv-65

Plaintiff,  
vs.

## COMPLAINT

RENTON SCHOOL DISTRICT; TIMOTHY SHULTZ, in his official capacity; STEPHEN HARRIS, in his official capacity; VICTORIA BLAKENEY, in her official capacity; and SHANNON HARVEY, in her official capacity.

## JURY DEMAND

## Defendants

Plaintiffs, by and through their attorneys, allege as follows:

## I. PARTIES

1.1 Plaintiff L.W. is the parent and guardian of her daughter B.W., a minor.

1.2 B.W. was a student in the Renton School District during the time the events alleged in this Complaint occurred.

### 1.3 B.W. is female.

#### 1.4 B.W. is African American.

1.5 B.W. is student with a disability, as defined by the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. §§ 1400–1485, the Americans with Disabilities Act, 42 U.S.C. §12101 et seq., and Section 504 of the Rehabilitation Act of 1973.

1.6 L.W. and B.W. reside in the city of Renton, in King County, Washington.

1.7 Defendant Renton School District is a public school district located in King County, Washington.

## II. JURISDICTION AND VENUE

2.1 This Court has jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States pursuant to 28 U.S.C. § 1331, including any civil action to redress the deprivation of any right, privilege, or immunity secured by the Constitution, laws, or treaties caused under the color of state law, statute, ordinance, regulation, custom, or usage pursuant to 28 U.S.C. § 1334.

2.2 This case arises under federal laws and this Court therefore has jurisdiction.

2.3 A civil action may be brought in a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred pursuant to 28 U.S.C. § 1391.

2.4 Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because all of the incidents complained of in this Complaint occurred in the city of Renton, in King County, Washington.

### III. FACTUAL ALLEGATIONS

3.1 B.W. was a student at Nelson Middle School in the Renton School District beginning in the 2017-2018 school year.

3.2 Prior to the incidents giving rise to liability here, B.W. had a pre-existing diagnosis of PTSD, anxiety, and depressive episodes.

3.3 In or around April 2017, the District implemented a student support plan pursuant to Section 504 to support those disabilities.

3.4 In September 2017, B.W. was also identified as a student with a specific learning disability that qualified her for services in mathematics.

3.5 At the time she began middle school during the 2017-2018 school year, B.W. also suffered from a physical disability called genu valgum – a condition commonly described as “knock-knees,” which was characterized by an inability to touch her feet together while

1 simultaneously straightening her legs, due to the inward angle of her knees. This condition caused  
2 pain and difficulties walking.

3 3.6 After years of medical monitoring in the years preceding the 2017-2018 school  
4 year, B.W.'s doctors recommended moving forward with a guided growth surgery, which requires  
5 a doctor to make an incision at the growth plate to secure a titanium plate to the bone and insert  
6 screws to correct the misaligned curvature of the bone. Once inserted, the young patient continues  
7 to grow until the bone curvature has been corrected.

8 3.7 The timing of this surgery was critical because B.W. needed to have completed  
9 some growth (to prevent reversion) and to have sufficient growth left to make the titanium screws  
10 and plates effective at guiding the bone growth.

11 3.8 Timing the removal of the plates and screws was also critical to avoid over-  
12 correcting and to prevent B.W. from becoming bow-legged.

13 3.9 In this case, B.W.'s treatments were disrupted and her healing process was made  
14 more difficult by the foreseeable and preventable gender- and disability-based harassment,  
15 intimidation, and bullying she suffered at school.

16 3.10 At the beginning of the 2017-2018 school year, a student named C.M. began  
17 harassing B.W. about her physical disabilities.

18 3.11 C.M. is a male.

19 3.12 C.M. is African American descent.

20 3.13 C.M. has a disability.

21 3.14 During social studies class, C.M. asked B.W. disparaging questions, such as:  
22 "What's wrong with your legs?" or "Why do you walk funny?"

23 3.15 B.W. sought guidance from her mother about the harassment, who told her to tell  
24 her teacher about it, which B.W. did.

25 3.16 Despite reporting the harassment to Mr. Harris, he did nothing to stop it or to  
26 prevent further bullying.

1           3.17 Mr. Harris did not report the incidents to the building principal, to the District's  
2 HIB Coordinator, or to the District's Section 504 or ADA Coordinator.

3           3.18 Based on the training records in Mr. Harris's employment file, it appears that he  
4 was not trained or equipped to respond to the Harassment, Intimidation, and Bullying of a student  
5 in violation of the District's Procedure 3207P – which states that “[s]taff will receive annual  
6 training on the school district's policy and procedure, including staff roles and responsibilities,  
7 and the use of the district's Incident Reporting Form” – and of the District's duty to share its HIB  
8 policy with school employees pursuant to RCW 28A.300.285(1).

9           3.19 Neither B.W. nor her mother L.W. were provided with information on how to  
10 report harassment, intimidation, or bullying.

11           3.20 The Nelsen Middle School handbook only defined the act of harassment,  
12 intimidation, and bullying and stated that “[c]onsequences will be determined by administrator  
13 based on the severity of the act.”

14           3.21 There was no reference to District policy, the procedure for responding to  
15 allegations of bullying, or the process for reporting any bullying.

16           3.22 This was in violation of the District's Procedure 3207P – which states that “the  
17 superintendent will ensure that a statement summarizing the policy and procedure is provided in  
18 student, staff, volunteer, and parent handbooks.”

19           3.23 On October 6, 2017, B.W. went in for her first surgery to implant the steel guides  
20 in her joints.

21           3.24 She was discharged from the hospital on October 8, 2017.

22           3.25 On October 11, 2017, L.W. emailed B.W.'s teachers for school work, which had  
23 not been made available earlier.

24           3.26 On October 18, 2017, L.W. emailed the school psychologist to inform her that  
25 B.W. would return to school the next day in a wheelchair.

26           3.27 L.W. requested wheelchair-accessible transportation and support for B.W. at

1 school to help her move from classes and to and from the bus.

2 3.28 On October 19, 2017, the school failed to send a wheelchair-accessible mode of  
3 transportation to B.W.'s home to bring her to school.

4 3.29 L.W. had to take B.W. to school on October 19, 2017, in a wheelchair because of  
5 the school's failure to provide the appropriate transportation.

6 3.30 L.W. had to contact the school multiple times to arrange appropriate transportation  
7 for B.W.

8 3.31 The District did not have any support available for B.W. when she returned to  
9 school on October 19, 2017.

10 3.32 Over a week passed before the District provided B.W. with the support she needed  
11 to move between classes.

12 3.33 C.M. escalated his harassment of B.W. after her return to school.

13 3.34 C.M. mocked her for being disabled and wheelchair-bound.

14 3.35 C.M. called B.W. a "BFG" (big fat girl).

15 3.36 C.M. terrorized her regularly.

16 3.37 Ultimately, C.M. went on a rant and called her profanity-laden names during social  
17 studies, targeting her on the basis of gender and disability.

18 3.38 Mr. Harris witnessed this incident and failed, again, to report the harassment,  
19 intimidation, and bullying to the school principal, the District's HIB officer, or the non-  
20 discrimination coordinator.

21 3.39 Troubled by the school's lack of response, L.W. began calling the school to report  
22 the harassment and visited the school on multiple occasions to discuss the issue.

23 3.40 L.W. reported this to the teacher and the principal.

24 3.41 The paraprofessional who was finally asked to assist B.W. travel between classes  
25 witnessed the harassment and reported it to the building principal.

26 3.42 No one at the school followed the legal obligations to make a report of harassment

1 (including disability or gender harassment), conduct any investigation into the incident, prepare  
2 a safety plan, or took any other reasonable measures to protect B.W. from the escalating  
3 harassment.

4 3.43 C.M. continued to intimidate B.W., posturing at her aggressively to try getting her  
5 to flinch in fear, calling her a “bitch” and “fucking bitch” in the presence of teachers and other  
6 staff.

7 3.44 C.M.’s aggression towards B.W. was reasonably foreseeable based on his prior  
8 conduct towards her and other students.

9 3.45 L.W. called the school to report the harassment on October 23, 2017.

10 3.46 She called again on December 11, 2017.

11 3.47 She missed work to come in and talk to school administrators on January 11, 2018.

12 3.48 She missed work a second time to visit the school and report the gender and  
13 disability-based harassment to school administrators on January 12, 2018.

14 3.49 She missed work a third time to visit the school and report the gender and  
15 disability-based harassment to school administrators on January 19, 2018.

16 3.50 She missed work a fourth time to visit the school and report the gender and  
17 disability-based harassment to school administrators on February 2, 2018.

18 3.51 On March 12, 2018, L.W. made yet another trip to the school’s office to discuss  
19 the matter.

20 3.52 Despite all of L.W.’s reports of harassment, nobody at the school filled out a HIB  
21 (Harassment, Intimidation and Bullying) or Title IX report, conducted an investigation, prepared  
22 a student safety or support plan, or took any action to protect B.W.

23 3.53 B.W.’s Assistant Principal, Timothy Shultz, ignored these reports and did nothing  
24 to address the concerns.

25 3.54 A review of Mr. Shultz’s training records shows that he was trained to respond to  
26 the Harassment, Intimidation, and Bullying and Discrimination of students.

1       3.55 Mr. Shultz took at least one course on Nondiscrimination and Affirmative Action  
2 in October 2015 and one course on the Prohibition of Harassment, Intimidation, and Bullying in  
3 October 2015.

4       3.56 Rather than report the incident to the District's HIB Coordinator, 504 Coordinator,  
5 or Title IX Coordinator for investigation and response, Mr. Schultz was deliberately indifferent  
6 to B.W.'s situation.

7       3.57 The harassment therefore continued unabated.

8       3.58 B.W. was able to discontinue use of her wheelchair within 5 weeks of her surgery.

9       3.59 B.W. transitioned to crutches, then to walking on her own.

10      3.60 C.M. did not stop harassing B.W. or targeting her based on disability and gender  
11 after she discontinued use of her medical devices.

12      3.61 On April 18, 2018, during Social Studies class, C.M. was harassing B.W. again.  
13 He threw paper at her and other bothering behaviors.

14      3.62 Mr. Harris did not intervene.

15      3.63 Just after Social Studies ended, C.M. stood between B.W. and the door and  
16 blocked her from leaving the class.

17      3.64 B.W. attempted to squeeze past, but C.M. again blocked her from leaving the  
18 classroom.

19      3.65 B.W. tried pushing past him again, but he punched her on the right side of her face.

20      3.66 He kept punching her until she fell to the floor.

21      3.67 He did not stop.

22      3.68 B.W. attempted to defend herself and hit C.M. back in an attempt to get him to  
23 stop.

24      3.69 Medical records show that her hands had defensive marks on them from fighting  
25 back.

26      3.70 B.W. broke her \$165 FitBit while trying to defend herself.

1       3.71   Her teacher, Mr. Harris, did not stop the assault.

2       3.72   Instead, C.M. punched B.W. repeatedly while she lay on the floor.

3       3.73   C.M. beat B.W. unconscious.

4       3.74   Despite her head injury, the school nurse did not examine B.W. and the school  
5 staff moved B.W. to the office in clear violation of District Policy 3418 and Procedure 3814P and  
6 in callous disregard to her disabilities and susceptibility to further injury.

7       3.75   Rather than calling a licensed health care professional or her mother immediately,  
8 school administrators took the time to wash the blood from B.W.'s clothing and face to hide the  
9 extent of her injuries.

10      3.76   Nobody took photographs or documented B.W.'s condition.

11      3.77   By the time L.W. arrived at school, B.W. was washed clean of the blood and was  
12 waiting for her mother wearing a wet sweatshirt with the extent of her injuries concealed.

13      3.78   No one filed an HIB report, escalated the matter to the District's HIB Coordinator,  
14 504 Coordinator, Title IX Coordinator, or any other District-level compliance officer.

15      3.79   Nobody took any actions to prevent further harassment in response to the April 18,  
16 2018, assault.

17      3.80   L.W. took B.W. to the local urgent care facility where she was diagnosed with an  
18 acute post-traumatic headache and potential concussion.

19      3.81   B.W.'s injuries included facial swelling on the right side of her face, a bloody nose,  
20 and blood in the mouth.

21      3.82   B.W. was lightheaded with a headache, nausea, and sensitivity to light and sound.

22      3.83   B.W. missed two days of school.

23      3.84   Her mother missed two days of work for observation and additional medical  
24 treatment.

25      3.85   On April 19, 2018, B.W. went to the dentist due to the unending pain in her jaw,  
26 her inability to open her mouth, and her inability to bring her teeth together.

1           3.86 The dentist's x-rays showed that her teeth were broken under the gum line on the  
2 roots of teeth 3, 4, 5, 6, 7, and 8 (these include prominent teeth that make up a person's smile).

3           3.87 On April 20, 2018, B.W. went to the doctor as a follow-up to the assault, due to  
4 pain across her nasal bridge, zygomatic process, and upper orbit.

5           3.88 The doctor noted some bruising and that B.W. felt like her teeth were not coming  
6 together properly.

7           3.89 B.W.'s doctor diagnosed her with a concussion (a closed head injury) and  
8 recommended that she obtain a CT scan to rule out any fractures in the head and neck area.

9           3.90 B.W. returned to school on April 23, 2018.

10          3.91 Despite having been a victim of harassment, intimidation, and bullying, she was  
11 not offered a student support plan, a safety plan, or any other remedies that would have been  
12 expected from a reasonably prudent school district.

13          3.92 Instead, the District initially sanctioned B.W. for fighting in school, thereby  
14 causing additional emotional distress.

15          3.93 B.W. was returned to school with no assurance that the aggressor would not assault  
16 her again.

17          3.94 B.W. had to return to her classes, including those shared with C.M., without a  
18 safety plan or additional supervision and support.

19          3.95 The District did not reconvene B.W.'s IEP team to provide her with any support  
20 for her trauma from the assaults and harassment or in any way address her pre-existing emotional  
21 disabilities or to assess whether the harassment, intimidation, bullying, and physical assault  
22 impaired her ability to access her education.

23          3.96 L.W. repeatedly sought assurances of her daughter's safety from District officials,  
24 who ignored her.

25          3.97 The school planned to return C.M. to Nelson and to the classes he shared with B.W.  
26 after a 10-day suspension

1           3.98 It failed to notify L.W. of its intentions.

2           3.99 L.W. only discovered this after one of C.M.'s friends informed B.W. that he was  
3 going to return to school the following day.

4           3.100 B.W. immediately called her mother to tell her this.

5           3.101 In response, L.W. placed several calls to the office of Vickie Damon, Chief of  
6 Secondary Schools to request a safety planning meeting.

7           3.102 These calls were not returned for several hours.

8           3.103 When L.W. finally spoke to Ms. Damon, L.W. asked the District not to allow C.M.  
9 to return to Nelsen.

10           3.104 Ms. Damon initially refused this request, stating that C.M. had a right to an  
11 education.

12           3.105 L.W. clarified that she would seek a temporary restraining order preventing the  
13 harasser from being within 50 feet of her daughter and asked whether the District could transfer  
14 C.M. to a different school instead.

15           3.106 L.W. also asked for a Safety Planning Meeting.

16           3.107 Ms. Damon asked to call L.W. back and L.W. agreed.

17           3.108 Ms. Damon never called L.W. back.

18           3.109 Instead, Ms. Damon's secretary called to let L.W. know that the District saw no  
19 need for a safety planning meeting, because C.M. would be administratively reassigned to another  
20 campus.

21           3.110 In so doing, the District continued to fail to address B.W.'s safety and well-being  
22 in any other way and failed its duty to provide a safe and healthy school environment.

23           3.111 On April 27, 2018, B.W. went to the doctor for an appointment to discuss the  
24 operation scheduled to address her genu valgum, which was supposed to take place on April 30,  
25 2018.

26           3.112 Due to the head injury and concussion and the potential risk of anesthesia for a  
27

1 patient in her condition, the doctors agreed that the surgery needed to be postponed.

2 3.113 B.W.'s guided growth for her condition consequently continued past the point of  
3 correction, towards overcorrection.

4 3.114 She suffered significant physical pain as a result and was placed at unnecessary  
5 physical risk.

6 3.115 Feeling unsafe and unable to attend school, B.W. sought help.

7 3.116 On May 1, 2018, B.W. met with a social worker for support reintegrating back to  
8 school.

9 3.117 She was having severe separation anxiety from her mother and her step-father,  
10 Germel Goodrich, and could not be left alone.

11 3.118 She slept with the lights on and sat facing the door or exit to the room.

12 3.119 Despite her parents' best efforts at home, they were unable to provide her with the  
13 support she needed in school.

14 3.120 B.W.'s stepfather even asked school administrators for permission to escort B.W.  
15 to class. However, this request was denied.

16 3.121 The District took no actions to propose alternative supports.

17 3.122 On May 2, 2018, school psychologist Margo Shine asked school administrators  
18 whether the teaching team needed to make any accommodations for B.W. in light of the assault.

19 3.123 Ms. Shine never received any response.

20 3.124 B.W. began exhibiting school refusal.

21 3.125 She stopped attending classes and started going to the "ISI room" instead.

22 3.126 After about a week, her PE teacher noticed the absences and expressed concern to  
23 the school administrators on May 8, 2018.

24 3.127 However, the school administrators did not take any action to address this  
25 symptom of B.W.'s distress – either through her IEP, her 504 Plan, or a student support plan.

26 3.128 They remained deliberately indifferent to the manifestation of emotional

1 disabilities and to the bullying, harassment, intimidation, and assault.

2 3.129 None of the school administrators ever contacted L.W. to discuss B.W.'s absences  
3 or school refusal.

4 3.130 The school instead initiated disciplinary action against B.W. for truancy.

5 3.131 On May 17, 2018, Ms. Burcham sent an email to school administrators stating that  
6 she had not seen B.W. for at least 4 weeks and asked whether B.W. had been transferred or  
7 whether she was truant.

8 3.132 The ISI teacher, Ms. Cummings McNeil, stated that B.W. had been coming to the  
9 ISI room saying that her doctor told her she could not do specific tasks for computer class, PE,  
10 and testing periods. Ms. Cummings McNeil wrote that B.W. "is still claiming the concussion  
11 thing it's been a month," opined that B.W. should at least be going to classes, and suggested  
12 holding a parent meeting.

13 3.133 However, the Dean of Students, Joan Lyke, dismissed these concerns and took no  
14 actions to address the school avoidance (which was a symptom of the trauma following the  
15 harassment, intimidation, and bullying).

16 3.134 Instead, she said that she had sent two requests to B.W.'s doctor seeking guidance  
17 on accommodations and suggested that it did not matter whether B.W. was skipping PE because  
18 she was "supposedly having surgery on her legs again on 5/22, next week so will probably be out  
19 of PE after that anyway."

20 3.135 On May 22, 2018, B.W. had a second surgery to remove the steel plates in her legs.

21 3.136 She returned to school on May 29, 2018, in a wheelchair.

22 3.137 When she returned to school, teachers and staff continued to ignore B.W.

23 3.138 Her PE teacher marked her absent all week, despite B.W.'s 504 and manifest  
24 physical inability to participate in PE.

25 3.139 It was not until two weeks after this surgery that the school nurse sent around an  
26 email asking teachers to accommodate B.W.'s disability, to give her extra passing time to get to  
27

1 her next class, to carry her backpack, and to spend PE in the library or the nurse's office.

## 2 **2018-2019 School Year**

3 3.140 During the following school year (2018-2019), the assailant, C.M., has been seen  
4 "hanging out" at Nelson Middle School because he seemed to be dating another student there.

5 3.141 B.W. remains afraid of C.M. and contact with him as well as the female student  
6 he is dating.

7 3.142 The District has taken insufficient steps to protect B.W. from continued trauma.

8 3.143 As of this date and in violation of District Policy 3207 ("Prohibition of  
9 Harasasment, Intimidation, and Bullying"), the District has failed to convene an IEP or 504 team  
10 meeting to discuss the impact that the disability- and gender-based harassment, intimidation,  
11 bullying, and assault had on B.W.'s ability to access her education to the same extent as other  
12 students without disabilities.

13 3.144 Despite explicit requests for corrective measures available to all students who were  
14 victims of harassment, intimidation, and bullying, the District has declined to offer any counseling  
15 or other corrective measures. This is also in violation of District Policy (see e.g., Policy 3207P,  
16 Step 6).

17 3.145 B.W. has suffered significant physical harm as a result of the District's actions and  
18 failures to act.

19 3.146 B.W.'s physical injuries included: a concussion, 6 broken teeth under the gum line,  
20 and unnecessary pain and suffering from delayed surgery.

21 3.147 B.W. still suffers ongoing bloody noses.

22 3.148 B.W. cannot chew gum and has to be cautious of chewing anything that might  
23 disrupt the extreme fragility of her teeth.

24 3.149 B.W. and her family have suffered significant emotional damage, which includes:  
25 exacerbation of her preexisting PTSD and depression, along with the onset of severe anxiety.

26 3.150 Her anxiety manifests in social anxiety, mistrust of authority, and self-harm

1 through hair-pulling.

2       3.151 Prior to the 2017-2018 school year, B.W. was an avid dancer. She performed in  
3 national competitions and shows, in jazz, modern, hip hop, tap, and ballet. She danced until her  
4 physical disability required her to put her dancing on hiatus while she underwent surgery.

5       3.152 Since the incident, B.W. has not danced. B.W.'s anxiety, depression, and PTSD  
6 prevent her from engaging in a beloved activity.

7       3.153 She is terrified of being seen or noticed by anybody outside of her family.

8       3.154 She consequently gained approximately 20 pounds, which increased her insecurity  
9 and social anxiety.

10      3.155 B.W. is now afraid of many day-to-day activities.

11      3.156 She was unable to sleep in her own room for a long time, preferring to sleep in the  
12 living room with lights on.

13      3.157 When she does sleep, she suffers from night terrors.

14      3.158 She is extremely sensitive to violence and loud noises.

15      3.159 B.W. cannot walk behind her parents, but always walks in front of her mother and  
16 stepfather. She is hypervigilant and never wants to be alone.

17      3.160 Her parents cannot engage in simple activities such as grocery shopping or social  
18 functions without a trusted family member to monitor and chaperone B.W.

19      3.161 As a result of the impact of the bullying and assault earlier this year, L.W. was  
20 unable to work for several months so that she could care for her daughter B.W.

#### 21                   **IV. CAUSES OF ACTION**

22      4.1      Plaintiff B.W. repeats and realleges paragraphs 1.1 through 3.161 as if fully set  
23 forth herein.

24      4.2      Plaintiff B.W. brings this action pursuant to 42 U.S.C. § 1983 for violations of the  
25 following substantive rights guaranteed her under the Constitution and federal laws.

26      4.3      At all material times, the District and its employees acted under color of law.

1           4.4     At all material times, the acts or omissions of the District's employees were taken  
2 within the scope of their employment.

3           4.5     At all material times, the District's employees acted pursuant to the custom, policy  
4 or practice of the school.

5           4.6     During times relevant to these factual allegations, the District employees whose  
6 actions caused B.W.'s deprivation of rights were not provided with annual training on non-  
7 discrimination.

8           4.7     At all material times, the District's employees who had the authority to take  
9 corrective action of B.W.'s deprivation of rights had notice of the threat of deprivation or of the  
10 deprivation itself, but failed to take appropriate action to address them.

11           **A. FIRST CAUSE OF ACTION: DISABILITY-BASED DISCRIMINATION  
12 PURSUANT TO THE AMERICANS WITH DISABILITIES ACT AND SECTION  
13 504 OF THE REHABILITATION ACT**

14           4.8     Plaintiff B.W. repeats and realleges paragraphs 1.1 through 4.7 as if fully set forth  
herein.

15           4.9     B.W. has a disability.

16           4.10    Despite her requests for accommodations to access her education, the District  
17 employees deprived her of those accommodations and modifications.

18           4.11    The District's employees had the duty to respond to reports of disability-based  
19 harassment, intimidation, and bullying, but remained deliberately indifferent.

20           4.12    The Middle School has a custom of tolerating harassment, intimidation, and  
bullying among students with disabilities.

21           4.13    Nelsen does not have a custom of following the District's policy or the law when  
remediating the effects of harassment, intimidation, and bullying.

22           4.14    The employees who had the authority to take corrective action had actual notice  
23 of the harassment, intimidation, and bullying and were deliberately indifferent to the effects of  
24 the disability-based harassment, intimidation, and bullying.

1           4.15 The District employees did not provide B.W. with the corrective measures  
2 available to all students who have suffered harassment, intimidation, and bullying, despite her  
3 requests for counseling services and other support.

4           4.16 As a result of the District's actions, B.W. suffered damages of a nature and in an  
5 amount to be shown at trial.

6           4.17 Pursuant to 42 U.S.C. § 1983, the District is liable for the violations of B.W.'s  
7 substantive rights to reasonable accommodations for her disability and protection from disability-  
8 based discrimination guaranteed her under federal laws.

9           **B. SECOND CAUSE OF ACTION: DISCRIMINATION BASED ON GENDER  
10 PURSUANT TO TITLE IX OF THE EDUCATIONAL AMENDMENTS**

11           4.18 Plaintiff B.W. repeats and realleges paragraphs 1.1 through 4.17 as if fully set forth  
herein.

12           4.19 Pursuant to Title IX of the Educational Amendments, the District had a duty to  
investigate allegations of sexual or gender-based harassment, to stop the harassment, and to  
remediate its effects.

13           4.20 Nelsen Middle School has a custom of tolerating sexual harassment and gender-  
14 based harassment, as evidenced by its persistent failure to train employees to follow the District's  
15 non-discrimination policy.

16           4.21 The District employees whose actions caused B.W.'s deprivation of rights were  
17 not provided with annual training on non-discrimination.

18           4.22 School officials with the authority to take corrective action had notice of the  
gender-based harassment and were deliberately indifferent to the gender-based harassment.

19           4.23 As a result of the District's actions, B.W. suffered damages of a nature and in an  
20 amount to be shown at trial.

21           4.24 Pursuant to 42 U.S.C. § 1983, the District is liable for the violations of B.W.'s  
22 substantive rights to be free from gender-based harassment guaranteed by federal laws.

1

2 **C. THIRD CAUSE OF ACTION: VIOLATION OF 14<sup>TH</sup> AMENDMENT RIGHTS TO**  
**SUBSTANTIVE DUE PROCESS – STATE CREATED DANGER**

3

4 4.25 Plaintiff B.W. repeats and realleges paragraphs 1.1 through 4.24 as if fully set forth  
herein.

5 4.26 The District knew that C.M. had a history of behavioral concerns.

6 4.27 The District placed C.M. in B.W.’s class without specific and individualized adult  
supervision for C.W.

7 4.28 The District placed C.M. in B.W.’s class without training the teacher on how to  
take appropriate action to respond to any behavioral concerns.

8 4.29 In so doing, the District increased the risk to B.W. associated with C.M.’s  
dangerous propensities.

9 4.30 The District provided C.M. with the opportunity to harm B.W. by failing to  
intervene on any of the occasions prior to and including the assault.

10 4.31 The District’s employees who had the authority to take action to prevent the danger  
had notice of C.M.’s propensity for violence, but failed to take appropriate action to address them.

11 4.32 As a result of the District’s actions and inactions, B.W. suffered damages of a  
nature and in an amount to be shown at trial.

12 4.33 Pursuant to 42 U.S.C. § 1983, the District created a danger to B.W. in violation of  
her due process rights guaranteed under the Constitution.

13

14 **D. FOURTH CAUSE OF ACTION: RACE-BASED DISCRIMINATION IN**  
**VIOLATION OF TITLE VI OF THE CIVIL RIGHTS ACT**

15 4.34 Plaintiff B.W. repeats and realleges paragraphs 1.1 through 4.33 as if fully set forth  
herein.

16 4.35 B.W. is African American.

17 4.36 C.M. is African American.

18 4.37 At all material times, the District’s employees acted pursuant to the custom, policy

1 or practice of the school.

2       4.38 During times relevant to these factual allegations, the District employees whose  
3 actions caused B.W.'s deprivation of rights were not provided with annual training on non-  
4 discrimination pursuant to Title VI of the Civil Rights Act.

5       4.39 The District employees who had the authority to take corrective action did not take  
6 the complaints of B.W.'s mother seriously, failed to intervene in the harassment, and was  
7 deliberately indifferent to the needs of these two students because of their race and their perceived  
8 lack of recourse.

9       4.40 As a result of the District's actions and inactions, B.W. suffered damages of a  
10 nature and in an amount to be shown at trial.

11       4.41 Pursuant to 42 U.S.C. § 1983, the District is liable for the violations of B.W.'s  
12 right to be free from discrimination on the basis of race, color, and national origin, as guaranteed  
13 by federal laws.

14       **E. FIFTH CAUSE OF ACTION: DEPRIVATION OF EQUAL PROTECTION**  
15       **PURSUANT TO THE FOURTEENTH AMENDMENT OF THE UNITED STATES**  
16       **CONSTITUTION.**

17       4.42 Plaintiff B.W. repeats and realleges paragraphs 1.1 through 4.41 as if fully set forth  
herein.

18       4.43 B.W. is African American and is a student with a disability.

19       4.44 The District employees whose actions caused B.W.'s deprivation of rights were  
20 not provided with annual training on non-discrimination.

21       4.45 Based on her race and/or her status as a person with a disability, the District's  
22 employees were deliberately indifferent to the reports of harassment, intimidation, and bullying.

23       4.46 At all material times, the District's employees who had the authority to take  
24 corrective action of B.W.'s deprivation of rights had notice of the threat of deprivation or of the  
25 deprivation itself, but they failed to take appropriate action to address them.

26       4.47 As a result of the District's actions and inactions, B.W. suffered damages of a

nature and in an amount to be shown at trial.

4.48 Pursuant to 42 U.S.C. § 1983, the District is liable for the violations of B.W.'s rights to be treated like other non-minority students or students without disabilities, as guaranteed by the federal constitution.

## PRAYER FOR RELIEF

Plaintiffs request the following relief as follows:

A. A declaration from the court finding that the District violated its duties under federal law and Constitution;

B. An award of damages in amounts to be proved at the time of trial;

C. An award of costs and attorney's fees; and

D. For such other and further relief as the Court may deem just and equitable.

Dated this 15th of January, 2019.

  
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parent and guardian of minor student B.W.

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